The Planning Inspectorate

Appeal Decision

Hearing Held on 7 June 2017

Site visit made on 7 June 2017

by Rory Cridland LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 July ,2017

Appeal Ref: APP/F0114/W/17/3168256
New Barn Farm, Norton Lane, Whitchurch, Bristol BS14 0BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Hugh Pearce, GB & AE Pearce against the decision of Bath & North East Somerset Council.
- The application Ref 16/02942/OUT, dated 6 June 2016, was refused by notice dated 4 August 2016.
- The development proposed is described as "outline planning permission for the erection [of] an agricultural workers dwelling".

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on that basis, treating all plans as illustrative.

Policy Context

3. Policy CP8 of the Bath and North East Somerset Core Strategy[1] (CS) seeks to protect the openness of the Green Belt from inappropriate development in accordance with national planning policy. The National Planning Policy Framework ("the Framework") indicates[2] that, other than in connection with a small number of exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate.

4. Policy HG.10 of the Bath and North East Somerset Local Plan[3] (LP) specifically deals with new agricultural dwellings in the countryside. It says new dwellings will not be granted unless they are essential for agricultural or forestry workers. Various criteria are set out including: that there is a clearly established existing functional need and financial justification for a worker to live on the holding; that the need is for accommodation for a full-time worker; and that the need could not be fulfilled by another existing dwelling in the holding, or other existing accommodation in the area which is suitable or available for occupation, or through re-use of an existing building on the holding.

[1] Bath and North East Somerset Core Strategy – Part 1 of the Local Plan (July 2014).
[2] Paragraph 89.
[3] Bath and North East Somerset Local Plan (including minerals and waste policies) (October 2007).

5. At the hearing, the appellants invited me to afford Policy HG.10 only moderate weight on the basis that it was now of some age and not consistent with the Framework. However, although the LP pre-dates the Framework, Policy HG.10 is broadly consistent with it including paragraphs 28 and 55 which provide support for a prosperous rural economy, while advising against new isolated homes in the countryside unless there are special circumstances which justify it. These include where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Accordingly, I afford Policy HG.10 full weight.

6. Similarly, Policy RE.4 of the emerging Placemaking Plan (PP) deals with essential dwellings for rural workers and restricts new dwellings unless there is an essential need for a rural worker to be permanently at or near their place of work in the countryside. It sets out similar criteria to Policy HG.10 requiring the demonstration of a functional need, financial viability, the need to relate to a full time worker and that there is no other suitable alterative accommodation available on the holding, in the area or through the re-use of existing buildings on the holding. The PP is currently at an advanced stage with its adoption expected in the near future. At the hearing the parties agreed that, in view of its advanced stage and the fact that there are no significant alterations proposed to that policy, I should afford it significant weight. I concur with that approach and have taken this into account in my reasoning below.

Main Issues

7. The main issues are:

   (i) whether the proposal would be inappropriate development in the Green Belt;

   (ii) the effect of the proposal on the openness of the Green Belt;

   (iii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development in the Green Belt.

8. The appeal site is situated in the Green Belt. The appellants' written evidence refers to the exemption provided in Paragraph 89 of the Framework for buildings for agriculture and forestry. However, in the Statement of Common Ground the parties agree that the development would constitute inappropriate development within the Green Belt. The appellants confirmed at the hearing that they do not seek to rely on the above exemption or any of the other limited exemptions set out in paragraphs 89 and 90 of the Framework.

9. Consequently, in not benefitting from any of the listed exceptions, I find that the scheme would constitute inappropriate development within the Green Belt, which the Framework states is, by definition, harmful and should not be approved other than in very special circumstances[4].

[4] at Paragraph 87.

The effect on the openness of the Green Belt

10. In my view, openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.

11. The Council is satisfied that the proposed dwelling will have a limited impact visually due to the considerable screening which surrounds the site. However, it raises concerns regarding the spatial impact that it would have on the openness of the area. I agree with that assessment. In view of the screening along the roadside, its restricted visibility from the surrounding landscape and its close proximity to a number of existing buildings, the visual impact would be limited. Nevertheless, the addition of a dwelling on this site would inevitably lead to a loss of spatial openness compared to that which presently exists. This would have an adverse impact on openness which the Framework indicates is an essential characteristic of the Green Belt.

Whether there are any special circumstances which would justify the development .

12. The appeal site is located in the countryside, outside any recognised settlement boundary. It consists of an area of hardstanding located on the south side of Maesknoll Lane and forms part of the holding of New Barn Farm, a 420 acre organic beef and sheep farm. At the time of the hearing, 223 acres were owned outright by the appellants with a further 65 acres in shared ownership and 132 acres held on long running annual grazing tenancies. To the north east of the site there are three livestock buildings, a cubicle house, a livestock/storage building and concrete feeding yards all of which are utilised by the farming enterprise. Stock numbers vary but at the time of the hearing the holding comprised approximately 75 suckler cows, 8 in-calf heifers, 120 store cattle and 190 breeding ewes.

13. The Council accepts that the appellants are operating an established agricultural business which is financially viable. However, it disputes the appellants' contention that there is an essential need for a worker to be permanently present on the site. In assessing the question of essential need, it is first necessary to consider whether there is a physical need for a worker to be present at most times of the day and night.

14. The parties agree that there is an essential need for a worker to be present on site between January and May ("the Core Period") in order to deal with animal welfare issues which may arise from calving and lambing, the majority of which takes place during this period. However, the Council considers that for the remainder of the year, no such need exists and the welfare needs of the animals can be adequately met by a worker living off site.

15. During the hearing, I heard evidence from the appellants regarding the welfare needs of the animals and the amount of labour required to operate a sheep and beef farm of this size. While I acknowledge that the enterprise generates a need for labour which exceeds the present number of full time workers, there is nothing in the evidence which would indicate that this could not be met by employing additional labour that does not need to live on the site.

16. Furthermore, although the appellants' Agricultural Appraisal[5] indicates that breeding stock are calved all year round, it is clear from the additional evidence

[5] Cooper and Tanner Agricultural Appraisal dated May 2016.

provided by the appellants at the hearing[6] that the number of births that occur outside the Core Period are limited. Moreover, there is little robust evidence which would indicate that there has been any significant movement towards year round calving. Likewise, while I accept that some lambing does occur outside the Core Period, the appellants confirmed at the hearing that around 70% takes place between January and March.

17. Accordingly, while I accept that there will be times where a worker may need to be present on site outside the Core Period to attend to animal welfare needs, there is little evidence which would demonstrate that these situations are sufficiently numerous or frequent that they would require a permanent on-site presence. Furthermore, it is clear from the evidence that the farm business has operated successfully for a considerable period of time without the need for a worker to be permanently based on site. The appellants have not provided any information which would indicate that this arrangement has impacted negatively on either animal welfare or the efficient running of the farm. I am therefore not persuaded that there is an essential need for a worker to be permanently present on site throughout the year on animal welfare grounds.

18. The appellants have suggested that, in addition to animal welfare, concerns regarding fly tipping, general security and arson make it essential that there is a permanent on-site presence. While I accept that in some cases these matters can help establish that there is an essential need for a worker to be permanently present on site, again there is little in the way of robust evidence which would demonstrate that this particular site is at any significant risk. Furthermore, I have seen nothing which would indicate that other measures have been considered which would effectively reduce any such risk without the need to erect a permanent dwelling on the site. Likewise, although I note the practical difficulties that arise in workers living off site, I am not persuaded that these are so great that they make it essential for a worker to be based permanently on the site. As such, I do not consider that the concerns set out above would provide the special circumstances required to justify a grant of planning permission for a new isolated dwelling in the countryside.

19. Turning then to other alternative accommodation, the appellants have indicated that there is no other accommodation available either on site or nearby which would be suitable to meet the need identified above. However, they confirmed at the hearing that no assessment has been made as to whether the business is able to purchase a property to accommodate such a worker. Without further detail which would rule out the availability of other alternative accommodation, I am not persuaded that there is no other alternative accommodation available that could meet the need identified above.

20. Consequently, I conclude that while there is a need for a rural worker to be permanently present on site for part of the year, I do not consider that need to be essential at other times. Furthermore, I am not satisfied that this need cannot be sufficiently met by other alternative accommodation either on site or within the wider rural area. Accordingly, I find that a permanent dwelling on the site is not essential and, as such, the proposal would be contrary to LP Policy HG.10, emerging PP Policy RE.4 and Paragraph 55 of the Framework.

[6] EXB 1.

Other considerations

21. I have found above that the proposal would be inappropriate development in the Green Belt and would result in some loss of openness. In accordance with Paragraph 88 of the Framework, I afford this substantial weight. However, the Framework does not rule out a reduction in openness but instead requires that any reduction is justified either by means of an exemption or by demonstrating that very special circumstances exist.

22. In this case, the appellants have sought to rely on the essential need for a worker to be permanently based on the site as constituting the very special circumstances capable of overcoming this harm and justifying the development proposed. Nevertheless, I have also found above that this need is confined to only part of the year and could be suitably accommodated by means other than the erection of a permanent rural worker's dwelling on the site.

23. While I acknowledge that there are a number of identifiable benefits to the scheme, including the more efficient running of the business, improved animal welfare and additional security, these benefits are modest. Even cumulatively, they do not outweigh the harm which the scheme would cause.

24. In reaching my conclusions, I have had regard to the examples of other schemes which have been permitted by the Council as well as the other appeal decisions referred to by the parties. However, I am satisfied that none of the examples cited are comparable to the scheme before me. In any event, each proposal should be considered on its own merits and that is the approach I have taken in determining this appeal.

25. I have also had regard to the comments made in support of the proposal including those which relate to improved security for neighbouring occupiers. Nevertheless, I am satisfied that these are insufficient, both individually and cumulatively, to outweigh the harm to the Green Belt that would result from the proposal.

26. Accordingly, I find that there are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm that would arise from the development and so the very special circumstances which would justify allowing the development do not exist. As such, I find it would be contrary to CS Policy CP8, LP Policy HG.10, emerging PP Policy RE.4 and the guidance set out in the Framework.

Conclusion

27. For the reasons set out above, and having regard to all other matters raised, I conclude that the proposal would be contrary to CS Policy CP8, LP Policy HG.10 and emerging PP Policy RE.4 as well as the guidance set out in the Framework. I therefore conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Hugh Pearce	Appellant
Mr Gordon Pearce	Appellant
Mr Richard Appleyard	Planning Agent

FOR THE COUNCIL:

Mrs Emma Hardy	Planning Officer
Mr Robert Fox BSc (Hons) MRICS FAAV	Agricultural Consultant

DOCUMENTS SUBMITTED AT THE HEARING

1. Diary Entries dated 10-6-15 to 8-9-5 indicating number of calves born outside Core period (EXB 1).
2. Policy SCR5 of the emerging Placemaking Plan (EXB 2).